

Environmental Protection Agency

§ 702.61

fee of \$100 in accordance with 40 CFR 700.45(b).” in the certification required in § 723.175(i)(1)(x) of this chapter.

(5)(i) Each person who remits a fee identified in paragraph (b)(2) of this section for a PMN, consolidated PMN, intermediate PMN, or significant new use notice shall write or type the words, “The company named in part 1, section A has remitted the fee specified in 40 CFR 700.45 (b).” under “CERTIFICATION” on page 2 of the Premanufacture Notice for New Chemical Substances (EPA Form 7710-25 (4-26-83)).

(ii) Each person who remits the fee identified in paragraph (b)(2) of this section for an exemption application under section (5)(h)(2) of the Act shall include the words, “Each company identified in this application has remitted a fee of \$2,500 in accordance with 40 CFR 700.45(b).” in the exemption application.

(iii) Each person who remits the fee identified in paragraph (b)(2) of this section for an exemption notice under § 723.175 of this chapter shall include the words, “Each company identified in this notice has remitted a fee of \$2,500 in accordance with 40 CFR 700.45(b).” in the certification required in § 723.175(i)(1)(x) of this chapter.

(f) *Fee refunds.* EPA will refund any fee paid for a section 5 notice whenever the Agency determines:

(1) That the chemical substance that is the subject of a PMN, intermediate PMN, exemption application, or exemption notice is not a new chemical substance as of the date of submission of the notice.

(2) In the case of a significant new use notice, that the notice was not required.

(3) The notice is incomplete under § 720.65(c) of this chapter.

[53 FR 31252, Aug. 17, 1988, as amended at 54 FR 21429, May 18, 1989; 58 FR 34204, June 23, 1993]

§ 700.49 Failure to remit fees.

EPA will not consider a section 5 notice to be complete unless the appropriate certification under § 700.45(e) is included and until the appropriate remittance under § 700.45(b) has been sent to EPA as provided in § 700.45(e) and received by EPA. EPA will notify the

submitter that the section 5 notice is incomplete in accordance with § 720.65(c) of this chapter.

PART 702—GENERAL PRACTICES AND PROCEDURES

Subparts A–B—[Reserved]

Subpart C—Citizen Suit

Sec.

702.60 Purpose.

702.61 Service of notice.

702.62 Contents of notice.

AUTHORITY: 15 U.S.C. 2619.

SOURCE: 47 FR 2773, Jan. 19, 1982, unless otherwise noted.

Subparts A–B—[Reserved]

Subpart C—Citizen Suit

§ 702.60 Purpose.

Section 20 of the Toxic Substances Control Act (TSCA) authorizes any person to begin a civil action to compel performance by the Environmental Protection Agency (EPA) of TSCA non-discretionary acts or duties (section 20(a)(2)) or to restrain any violation of TSCA, or of any rule promulgated under sections 4, 5, or 6, or of any order issued under section 5 of TSCA (section 20(a)(1)). The purpose of this regulation is to prescribe procedures governing the giving of a notice of intent to file suit required by section 20(b) of TSCA as a prerequisite to beginning such civil actions.

§ 702.61 Service of notice.

(a) *Notice as a prerequisite to suit.* Under section 20 of TSCA, no civil action may be commenced by a citizen to restrain a violation of TSCA, or a rule or order thereunder, unless at least 60 days in advance the citizen has given notice of the intent to file suit to the Administrator and to the person who is alleged to have committed the violation. No civil action may be commenced by a citizen to compel the Administrator to perform any non-discretionary act or duty under TSCA, unless at least 60 days in advance the citizen has given notice of the intent to file suit to the Administrator. However, in

the case of an alleged failure by the Administrator to file an action under section 7 of TSCA, the citizen must give notice to the Administrator only 10 days in advance of filing the civil action.

(b) *Method of service.* Notice of intent to file suit can be either personally served or served by certified mail—return receipt requested—to persons identified in paragraph (d) of this section.

(c) *Date of service.* The effective date of service of a notice given in accordance with this rule shall be the date of the return receipt, if served by mail, or the date of receipt if personally served.

(d) *Persons to be served*—(1) *Violations of TSCA rules or TSCA order.* (i) If the alleged violator is a private individual or a corporation, notice of intent to file suit shall be served on the individual or the owner or managing agent of the plant, facility, or activity alleged to be in violation. If the alleged violator is a corporation, a copy of the notice shall also be sent to the registered agent, if any, of such corporation in the State in which such violation is alleged to have occurred. Notice shall also be served on the Administrator of the EPA.

(ii) If the alleged violator is a State or local government entity, notice of intent to file suit shall be served on the head of the agency. Notice shall also be served on the Administrator of the EPA, and a copy shall be sent to the Attorney General of the United States.

(iii) If the alleged violator is a Federal agency, notice of intent to file suit shall be served on the head of the agency. Notice shall also be served on the Administrator of the EPA, and a copy shall be sent to the Attorney General of the United States.

(2) *Performance of non-discretionary TSCA acts or duties.* Notice of intent to file suit shall be served on the Administrator of the EPA and a copy shall be sent to the Attorney General of the United States.

(3) *Address of persons to be served.* (i) EPA Administrator: 401 M St., SW., Washington, DC 20460. (ii) Attorney General of the United States: 10th and Constitution Avenue, NW., Washington, DC 20530.

§ 702.62 Contents of notice.

(a) *Violation of TSCA rule or TSCA order.* Notice of intent to file suit regarding an alleged violation of TSCA or any rule promulgated under sections 4, 5, or 6, or an order issued under section 5, shall include sufficient information to permit the recipient to identify:

(1) The specific provision of TSCA or of the rule or order under TSCA alleged to have been violated.

(2) The activity alleged to constitute a violation.

(3) The person or persons responsible for the alleged violation.

(4) The location of the alleged violation.

(5) The date or dates of the alleged violation as closely as the citizen is able to specify them.

(6) The full name, address, and telephone number of the citizen giving notice.

(b) *Failure to act.* Notice regarding an alleged failure of the Administrator to perform any act or duty which is not discretionary shall:

(1) Identify the specific provision of TSCA which requires an act or creates a duty.

(2) Describe with reasonable specificity the action taken or not taken by the Administrator which is alleged to constitute a failure to perform the act or duty.

(3) State the full name, address, and telephone number of the citizen giving the notice.

(c) *Identification of Counsel.* The notice shall state the name, address, and telephone number of the Legal Counsel, if any, representing the citizen giving the notice.

PART 704—REPORTING AND RECORDKEEPING REQUIREMENTS

Subpart A—General Reporting and Recordkeeping Provisions for Section 8(a) Information-Gathering Rules

Sec.

704.1 Scope.

704.3 Definitions.

704.5 Exemptions.

704.7 Confidential business information claims.

704.9 Where to send reports.

704.11 Recordkeeping.

704.13 Compliance and enforcement.